



Paper No. 25

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**OFFICE OF PETITIONS  
ON PETITION**

In re Application of  
Solem et al.  
Application No. 09/775,677  
Filed: February 5, 2001  
Attorney Docket No. 49988/MEG/E303

This decision concerns the June 3, 2003 petition under 37 CFR 1.137(b) to revive the above-referenced application.

The petition is **GRANTED**.

A non-final Office action was mailed on August 28, 2002, setting forth a 3-month shortened statutory reply period. Applicants filed a Request for Continued Examination (RCE) on February 25, 2002 along with a 3-month extension of time and the requisite fee. Since an RCE is not a proper reply to a non-final Office action,<sup>1</sup> the RCE filed on February 25, 2002 was not entered.<sup>2</sup> Consequently, the application became abandoned on March 1, 2002.<sup>3</sup>

The instant petition encloses the \$1,300 petition fee; an amendment in response to the August 28, 2002 non-final Office Action; and includes a statement that the entire delay in filing a proper reply from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application file is being returned to Technology Center 3700 for review of the amendment submitted with the petition.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang  
Petitions Attorney  
Office of Petitions

<sup>1</sup> In the instant case, a reply to the **non-final** Office action may be: an argument or an amendment fully responsive to the Office action in question, or the filing of a continuing application under 37 CFR 1.53(b). An RCE is only appropriate when, e.g., responding to a **final** Office action.

<sup>2</sup> The \$750 RCE filing fee submitted with the improper RCE has been credited to Deposit Account No. 03-1728 as authorized in the instant petition.

<sup>3</sup> Abandonment may result where applicant's reply is timely but is not fully responsive to the Office action; see MPEP section 711.02(a) (Rev. 1, Feb. 2003). A 3-month extension of time extended the reply period to 2/28/02.